

CITY OF SANTA FE

ADMINISTRATIVE MANUAL

Originating Business Unit:

Human Resources

SUBJECT:



Harassment Prevention Policy	Policy Number 2500-4-1	# Pages 06
	Effective Date 10-31-1991	Revision Date 06-17-2005

1.0 PURPOSE:

- 1.1 The purpose of this policy is to maintain an environment in the workplace that is free of harassment because of race, color, religion, gender, sexual orientation, gender identity, age, national origin, and disability, and to provide procedures for the reporting of illegal discriminatory conduct so that prompt remedial action can occur.

2.0 APPLICABLE TO:

- 2.1 All City of Santa Fe Employees

3.0 REFERENCES:

- 3.1 Title VII of the Civil Rights Act of 1964, 42 USC Section 2000 et seq.
3.2 NM Human Rights Act, N.M. Stat. Ann. Section 28-1-1 et seq.
3.3 Age Discrimination Act of 1973, Sections 501 and 505.
3.4 Americans with Disabilities Act of 1990 (ADA)
3.5 SFCC 19-3.6 (1987)

4.0 DEFINITIONS:

- 4.1 “**Discriminatory Harassment**” means verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, gender (with or without sexual conduct), sexual orientation, gender identity, age of 40 or older, national origin, or disability and that:
- has the purpose or effect of creating an intimidating, hostile or offensive work environment; or
 - has the purpose or effect of unreasonably interfering with an individual’s work performance; and otherwise adversely affects the individual’s terms and conditions of employment.

- 4.1.1 Discriminatory Harassment may include, but is not limited to, racial slurs, graffiti, and jokes which are unreasonably offensive or abusive.
- 4.2 Retaliation: Adverse employment action, intimidation or coercion by any employee against any other individual because that person made a complaint pursuant to this policy or because that person testified, assisted, or participated in the investigation or hearing concerning violations of this policy.
- 4.3 **Sexual Harassment** means harassment in the form of unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment (called by the legal term "quid pro quo");
 - submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual (called by the legal term "quid pro quo"); or
 - such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment (called by the legal term "hostile work environment."
- 4.3.1 Sexually harassing behavior may include, but is not limited to:
- the display of pornographic material or sexual offensive media.
 - jokes or comments of a sexual nature;
 - eye contact or body language that may be of a sexual nature;
 - unwelcome insults, innuendoes, propositions, touching, gestures, cornering or double entendres that are of a sexual nature; acts of gender based animosity; requests for sexual favors;
 - persistent requests for a date; or
 - terms of endearment, such as calling a co-worker, "honey," "dear," "sweetheart," or similar expressions (the effect is the primary issue rather than the intent). Even if the person "means nothing to you" or you have "used the term for years," you should be aware that these expressions are inappropriate;
 - inquiries into a person's sexual habits, bragging about one's own sexual prowess.
 - sexual harassment is further defined and described in the guidelines, standards and rules adopted by the New Mexico Civil Rights Commission and the Equal Employment Opportunity Commission.
- 4.4 **Workplace** may include but is not limited to City owned or leased facilities, property or any other location where any City employees are required to be in order to perform their duties.

5.0 POLICY:

To provide a work environment that is free of all forms of harassment based on race, color, religion, gender, sexual orientation, gender identity, age, national origin, or disability, or any other basis prohibited by applicable federal, state or local law. Harassment is prohibited in any location that can reasonably be regarded as an extension of the workplace, such as an off-site social business function, or any other non city facility where city business is being conducted and discussed. The city is committed to complying with all federal and state equal employment opportunity laws.

6.0 PROCEDURES:

6.1 Prohibition of Unlawful Discrimination:

The City will not tolerate unlawful discrimination/harassment of, or by, its employees. The City will investigate all allegation of discriminatory harassment and take appropriate disciplinary action against employees who have been found to have engaged in such conduct.

- 6.2 Each employee should be aware that sexual banter, teasing, joking or chitchat may be offensive or unwelcome even if co-workers or others do not openly object to it. **All employees and other individuals are encouraged to immediately inform an individual engaging in such conduct that his or her behavior is unwelcome and that such behavior should stop immediately. .Sexual banter is simply inappropriate in the workplace.**
- 6.3 Discriminatory Harassment in any form should be reported immediately to one of the following: the complainant's supervisor, Division Director, Department Director, the Human Resources Director, EEO Administrator, or the City Manager. Reports may be verbal or written. Reports received from a third party will also be investigated.
- 6.4 The complainant may complete a Report of Harassment form. If the complainant does not complete the form, the individual listed in 6.3 of this policy to whom the alleged harassment is reported shall immediately complete the form.
- 6.4.1 The City is committed, and required by law, to take action if it learns of possible harassment, even if the alleged victim does not wish to formally file a complaint.



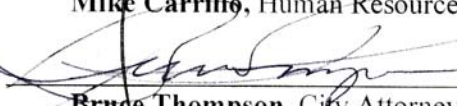
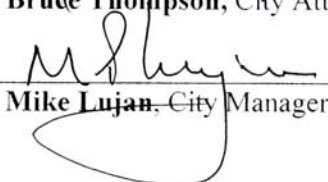
- 6.4.2 Reports of harassment are taken seriously and will be dealt with promptly. Every supervisor is responsible for promptly responding to any report of harassment. Failure by a supervisor to follow the procedures outlined in this Policy shall be considered to be a violation of this policy, and the supervisor may be subject to disciplinary action for failure to perform job duties.
- 6.5 Interim remedial actions may include, but is not limited to, whether the complainant and the alleged harasser should be separated within their work locations until the fact-finding inquiry has been completed. Regardless of whether the complainant and alleged harasser are separated, both individuals shall be instructed to limit communications with each other to necessary job-related communications until after the fact finding inquiry has been completed.
- 6.6 All Report of Harassment forms must be promptly forwarded to the Human Resources Department.
- 6.7 The specific action taken in any particular case depends on the nature and gravity of the conduct reported, and may include mediation or formal investigation. If significant facts are contested, a fact finding investigation will be undertaken. If a fact-finding investigation is necessary, it will be launched expeditiously.
- 6.7.1 Depending on the circumstances, an investigation may include the following:
- Interview the complaining party
 - Interview the alleged victim(s)
 - Interview witnesses, if any
 - Interview the alleged harasser
 - Determine the relationship of the parties
 - Determine the context in which the conduct occurred
 - Determine the effect of the conduct on the complaining party or victim
 - Obtain copies of any documentation
 - Evaluate the evidence
 - Evaluate the alleged harasser's conduct
 - Complete a written report with any relevant documentation attached.
- 6.7..2 Employees are required to fully and truthfully cooperate in any investigation of harassment. Intentionally providing false information to the investigator is grounds for discipline. Any refusal to comply, cooperate or be truthful in investigations under this policy will be grounds for disciplinary action, up to, and including, dismissal from employment.

- 6.8 Where harassment is found to have occurred, the city will take disciplinary action that is reasonably calculated to end the harassment and prevent its recurrence.
- 6.8.1 Disciplinary action may include transfer, written, reprimand, suspension, demotion, or termination of employment. Disciplinary action against the harasser will be conducted in accordance with the applicable Human Resources Rules, administrative policies, and any applicable collective bargaining agreement.
- 6.8.2 The disciplined employee may appeal the disciplinary action in accordance with the Human Resources Rules, administrative policies, and any applicable collective bargaining agreement.
- 6.8.3 Care will be taken to protect the confidentiality of the harassment allegations to the extent possible. The City cannot guarantee complete confidentiality since it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses. However, interviews about the allegation of harassment will be shared only with those who need to know. Records relating to the harassment complaint will be kept confidential on the same basis except that the victim shall be informed of the results of the investigation and the nature of any disciplinary action taken against the harasser.
- 6.9 It is unlawful to retaliate against an employee for filing a complaint for harassment or for cooperating in an investigation of such complaint. The City will not tolerate such retaliation. Retaliation shall be reported immediately to any one of the individuals described in 6.1 of this policy.
- 6.9.1 It is every employee's responsibility to read and become familiar with the provisions of this policy so that each employee can do his or her part in ensuring that the City's work environment is free of unlawful discrimination and retaliation.

7.0 APPENDICES:

- 7.1 Report of Harassment form.

8.0 REVIEW AND APPROVALS:

- 8.1 PREPARED BY:  6-17-05
Mark Allen, Assistant Human Resources Dir. DATE
- 8.2 REVIEWED BY:  6/20/05
Mike Carrillo, Human Resources Director, DATE
- 8.3 REVIEWED BY:  6/24/05
Bruce Thompson, City Attorney DATE
- 8.4 APPROVED BY:  6-28-05
Mike Lujan, City Manager DATE

REPORT OF HARASSMENT FORM

1. Complainant's name: _____ Home phone: _____

2. Department/Division/Section: _____

3. Complainant's job title: _____ Work phone: _____

4. Complainant's work site: _____

5. Name of the Person filing the Complaint (if different from Complainant):

6. Name of the Complainant's immediate supervisor: _____

7. Incident date: _____ Time: _____

8. Name of alleged harasser: _____ Home phone: _____

9. Alleged harasser's job title: _____ Work phone: _____

10. Describe the specific nature of the harassment (use additional pages if necessary):

11. Relief Requested: _____

12. Please indicate type of Discrimination:

Race: Color: Religion: Sex: Sexual Orientation: Gender Identity: Age:

National Origin: Disability: Sexual Harassment: Other:

13. Names, departments, position titles, work phone numbers, of witnesses, if any: _____